

## Department of Veterans Affairs

## §2.7

(j) *Delegation to the Chairman, Board of Contract Appeals.* In cases where OEDCA has recused itself from a case due to an actual, apparent, or potential conflict of interest, the Chairman, Board of Contract Appeals, is delegated authority to make procedural agency decisions to dismiss, in whole or in part, EEO discrimination complaints filed by agency employees, former employees, and applicants for employment; to make substantive final agency decisions where complainants do not request an EEOC hearing; and to take agency action following a decision by an EEOC Administrative Judge.

(k) *Processing complaints involving certain officials.* A complaint alleging that the Secretary or the Deputy Secretary personally made a decision directly related to matters in dispute, or are otherwise personally involved in such matters, will be referred for procedural acceptability review, investigation, and substantive decisionmaking to another Federal agency (e.g., The Department of Justice) pursuant to a cost reimbursement agreement. Referral will not be made when the action complained of relates merely to ministerial involvement in such matters (e.g., ministerial approval of selection recommendations submitted to the Secretary by the Under Secretary for Health, the Under Secretary for Benefits, the Under Secretary for Memorial Affairs, assistant secretaries, or staff office heads).

(l) *Assistant to the Secretary, Office of Regulation Policy and Management.* The Assistant to the Secretary for Regulation Policy and Management (ASRPM) is delegated authority:

(1) To act on all matters assigned to the Office of Regulation Policy and Management, except such matters as require the personal attention or action of the Secretary or the Secretary's Regulatory Policy Council.

(2) To manage and coordinate the Department's rulemaking activities, including the revision and reorganization of regulations.

(3) To serve as the Regulatory Policy Officer for the Department's rulemaking activities in accordance with Executive Order 12866.

(Authority: 38 U.S.C. 501, 512)

[25 FR 11095, Nov. 23, 1960]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §2.6, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### **§2.7 Delegation of authority to provide relief on account of administrative error.**

(a) Section 503(a) of title 38 U.S.C., provides that if the Secretary determines that benefits administered by the Department of Veterans Affairs have not been provided by reason of administrative error on the part of the Federal Government or any of its employees, the Secretary is authorized to provide such relief on account of such error as the Secretary determines equitable, including the payment of moneys to any person whom he determines equitably entitled thereto.

(b) Section 503(b) of title 38 U.S.C., provides that if the Secretary determines that any veteran, surviving spouse, child of a veteran, or other person, has suffered loss, as a consequence of reliance upon a determination by the Department of Veterans Affairs of eligibility or entitlement to benefits, without knowledge that it was erroneously made, the Secretary is authorized to provide such relief as the Secretary determines equitable, including the payment of moneys to any person equitably entitled thereto. The Secretary is also required to submit an annual report to the Congress, containing a brief summary of each recommendation for relief and its disposition. Preparation of the report shall be the responsibility of the General Counsel.

(c) The authority to grant the equitable relief, referred to in paragraphs (a) and (b) of this section, has not been delegated and is reserved to the Secretary. Recommendation for the correction of administrative error and for appropriate equitable relief therefrom will be submitted to the Secretary, through the General Counsel. Such recommendation may be initiated by the head of the administration having responsibility for the benefit, or of any concerned staff office, or by the Chairman, Board of Veterans Appeals. When a recommendation for relief under paragraph (a) or (b) of this section is initiated by the head of a staff office, or the Chairman, Board of Veterans

## § 2.8

Appeals, the views of the head of the administration having responsibility for the benefit will be obtained and transmitted with the recommendation of the initiating office.

(Authority: 38 U.S.C. 503, 512)

[37 FR 22864, Oct. 26, 1972, as amended at 49 FR 30693, Aug. 1, 1984; 54 FR 34981, Aug. 23, 1989; 68 FR 25504, May 13, 2002]

### § 2.8 Delegation of authority to authorize allowances for Department of Veterans Affairs employees who are notaries public.

(a) Employees occupying or acting in the positions designated in paragraph (b) of this section are authorized to designate those employees who are required to serve as notaries public in connection with the performance of official business and to pay an allowance for the costs therefor not to exceed the expense required to be incurred by them in order to obtain their commission.

(Authority: 5 U.S.C. 5945)

(b) Designated positions: Deputy Secretary, Under Secretary for Benefits, Director, Office of Data Management and Telecommunications, Chief Medical Director, General Counsel, Directors of regional offices, hospitals, domiciliaries, and centers.

[35 FR 13771, Aug. 29, 1970, as amended at 49 FR 30693, Aug. 1, 1984]

## PART 3—ADJUDICATION

### Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

#### GENERAL

##### Sec.

- 3.1 Definitions.
- 3.2 Periods of war.
- 3.3 Pension.
- 3.4 Compensation.
- 3.5 Dependency and indemnity compensation.
- 3.6 Duty periods.
- 3.7 Individuals and groups considered to have performed active military, naval, or air service.
- 3.10 [Reserved]
- 3.11 Homicide.
- 3.12 Character of discharge.
- 3.12a Minimum active-duty service requirement.

## 38 CFR Ch. I (7–1–04 Edition)

- 3.13 Discharge to change status.
- 3.14 Validity of enlistments.
- 3.15 Computation of service.
- 3.16 Service pension.
- 3.17 Disability and death pension; Mexican border period and later war periods.
- 3.18–3.19 [Reserved]
- 3.20 Surviving spouse's benefit for month of veteran's death.
- 3.21 Monetary rates.
- 3.22 DIC benefits for survivors of certain veterans rated totally disabled at time of death.
- 3.23 Improved pension rates—Veterans and surviving spouses.
- 3.24 Improved pension rates—Surviving children.
- 3.25 Parents' dependency and indemnity compensation (DIC)—Method of payment computation.
- 3.26 Section 306 and old-law pension annual income limitations.
- 3.27 Automatic adjustment of benefit rates.
- 3.28 Automatic adjustment of section 306 and old-law pension income limitations.
- 3.29 Rounding.
- 3.30 Frequency of payment of improved pension and parents' dependency and indemnity compensation (DIC).
- 3.31 Commencement of the period of payment.
- 3.32 Exchange rates for foreign currencies.

#### GENERAL

- 3.40 Philippine and Insular Forces.
- 3.41 Philippine service.
- 3.42 Compensation at the full-dollar rate for certain Filipino veterans residing in the United States.
- 3.43 Burial benefits at the full-dollar rate for certain Filipino veterans residing in the United States on the date of death.

#### RELATIONSHIP

- 3.50 Spouse and surviving spouse.
- 3.52 Marriages deemed valid.
- 3.53 Continuous cohabitation.
- 3.54 Marriage dates.
- 3.55 Reinstatement of benefits eligibility based upon terminated marital relationships.
- 3.56 [Reserved]
- 3.57 Child.
- 3.58 Child adopted out of family.
- 3.59 Parent.
- 3.60 Definition of “living with”.

#### ADMINISTRATIVE

- 3.100 Delegations of authority.
- 3.102 Reasonable doubt.
- 3.103 Procedural due process and appellate rights.
- 3.104 Finality of decisions.
- 3.105 Revision of decisions.
- 3.106 Renouncement.